

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Insurance Code is amended by  
5 changing Section 121-2.08 as follows:

6 (215 ILCS 5/121-2.08) (from Ch. 73, par. 733-2.08)

7 Sec. 121-2.08. Transactions in this State involving  
8 contracts of insurance independently procured directly from an  
9 unauthorized insurer by industrial insureds.

10 (a) As used in this Section:

11 "Captive insurance company" means any affiliated insurance  
12 company (including, but not limited to, any pure captive  
13 insurance company, association captive insurance company,  
14 sponsored captive insurance company, cell captive insurance  
15 company, industrial insured captive insurance company, risk  
16 retention group, or company approved and regulated as a captive  
17 financial company by this State, any other state, or any other  
18 jurisdiction) or special purpose financial captive insurance  
19 company formed to insure the operational risks of the company's  
20 parent or affiliates, risks of a controlled unaffiliated  
21 business, or other risks approved by the captive insurance  
22 company's board or other regulatory body.

23 "Exempt commercial purchaser" means exempt commercial

1 purchaser as the term is defined in subsection (1) of Section  
2 445 of this Code.

3 "Home state" means home state as the term is defined in  
4 subsection (1) of Section 445 of this Code.

5 "Industrial insured" means an insured:

6 (i) that procures the insurance of any risk or risks of  
7 the kinds specified in Classes 2 and 3 of Section 4 of this  
8 Code by use of the services of a full-time employee who is  
9 a qualified risk manager or the services of a regularly and  
10 continuously retained consultant who is a qualified risk  
11 manager;

12 (ii) that procures the insurance directly from an  
13 unauthorized insurer without the services of an  
14 intermediary insurance producer; and

15 (iii) that is an exempt commercial purchaser whose home  
16 state is Illinois.

17 "Insurance producer" means insurance producer as the term  
18 is defined in Section 500-10 of this Code.

19 "Qualified risk manager" means qualified risk manager as  
20 the term is defined in subsection (1) of Section 445 of this  
21 Code.

22 "Unauthorized insurer" means unauthorized insurer as the  
23 term is defined in subsection (1) of Section 445 of this Code.

24 (b) For contracts of insurance effective January 1, 2015 or  
25 later, within 90 days after the effective date of each contract  
26 of insurance issued under this Section, the insured shall file

1 a report with the Director by submitting the report to the  
2 Surplus Line Association of Illinois in writing or in a  
3 computer readable format and provide information as designated  
4 by the Surplus Line Association of Illinois. The information in  
5 the report shall be substantially similar to that required for  
6 surplus line submissions as described in subsection (5) of  
7 Section 445 of this Code. Where applicable, the report shall  
8 satisfy, with respect to the subject insurance, the reporting  
9 requirement of Section 12 of the Fire Investigation Act.

10 (c) For contracts of insurance effective January 1, 2015 or  
11 later, within 30 days after filing the report, the insured  
12 shall pay to the Director for the use and benefit of the State  
13 a sum equal to the gross premium of the contract of insurance  
14 multiplied by the surplus line tax rate, as described in  
15 paragraph (3) of subsection (a) of Section 445 of this Code,  
16 and shall pay the fire marshal tax that would otherwise be due  
17 annually in March for insurance subject to tax under Section 12  
18 of the Fire Investigation Act. For contracts of insurance  
19 effective January 1, 2015 or later, within 30 days after filing  
20 the report, the insured shall pay to the Surplus Line  
21 Association of Illinois a countersigning fee that shall be  
22 assessed at the same rate charged to members pursuant to  
23 subsection (4) of Section 445.1 of this Code.

24 (d) For contracts of insurance effective January 1, 2015 or  
25 later, the insured shall withhold the amount of the taxes and  
26 countersignature fee from the amount of premium charged by and

1 otherwise payable to the insurer for the insurance. If the  
2 insured fails to withhold the tax and countersignature fee from  
3 the premium, then the insured shall be liable for the amounts  
4 thereof and shall pay the amounts as prescribed in subsection  
5 (c) of this Section.

6 (e) Contracts of insurance with a captive insurance company  
7 shall not be subject to subsections (b) through (d) of this  
8 Section.

9 (Source: P.A. 98-978, eff. 1-1-15.)

10 Section 99. Effective date. This Act takes effect January  
11 1, 2016.